

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 1, SECTION 1200

AND

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 7.5, SECTION 1239

COMMERCIAL VEHICLE SAFETY ALLIANCE, NORTH AMERICAN STANDARD OUT-OF-SERVICE CRITERIA (CHP-R-11-08)

The California Highway Patrol (CHP) proposes to adopt by reference the Commercial Vehicle Safety Alliance, North American Standard Out-of-Service Criteria, April 1, 2011, Edition, in Title 13, California Code of Regulations. The current regulation incorporates by reference the Commercial Vehicle Safety Alliance, North American Standard Out-of-Service Criteria, April 1, 2010, Edition.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 34501(a)(1) of the California Vehicle Code (CVC) authorizes the CHP to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in Section 34500 CVC. The CHP's authority to adopt regulations includes, but is not limited to, controlled substances and alcohol testing of drivers by motor carriers, drivers hours-of-service qualifications, equipment, fuel containers, fuel operations, inspection, maintenance, record keeping, accident reports, drawbridges and cargo securement, (Section 34500.3 CVC). Section 2402 CVC provides the Commissioner with the authority to "make and enforce such rules and regulations as may be necessary to carry out the duties of the Department," and Section 2410 CVC provides the authority for the CHP to place vehicles out of service (Attorney General's Opinion NS 2520) in order to "ensure safety." Current regulations, adopt by reference the Commercial Vehicle Safety Alliance North America Standard Out-of-Service Criteria, April 1, 2010, Edition, which apply to those vehicles listed in Sections 34500 CVC.

The intent of these regulations is to adopt specific uniform criteria for determining whether or not a vehicle and/or driver, inspected by an authorized representative of the CHP, is in such an unsafe condition that they are likely to constitute a hazard on a highway. These regulations will incorporate by reference specified portions of the standards contained within the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2011, Edition.

Adoption of these criteria will continue to provide a nonmonetary benefit to the protection and safety of public health, employees and safety to the environment by providing a regulatory basis for enforcement efforts as they relate to commercial vehicle out-of-service criteria.

This proposed regulation is not inconsistent or incompatible with existing state regulations. This proposed regulation merely updates the current regulation.

PUBLIC COMMENTS

Any interested person may submit written comments on this proposed action via facsimile at (916) 322-3154, by email to cvsregs@chp.ca.gov, or by writing to:

CHP, Enforcement and Planning Division
Commercial Vehicle Section
ATTN: Sergeant Ken Roberts
P. O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 PM, on March 5, 2012.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section, no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 322-3154 or by calling the CHP, Commercial Vehicle Section, at (916) 843-3400. All requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the requestors information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, Commercial Vehicle Section, 601 North 7th Street, Sacramento, CA 95811. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our website at www.chp.ca.gov/regulations.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations, or questions regarding the substance of the proposed regulations should be directed to Sergeant Ken Roberts or Officer Rob Sanchez, CHP, Commercial Vehicle Section, at (916) 843-3400.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or non substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary cost or savings to any local agency, no cost to any local agency or school district for which Government Code Sections 17500-17630 require reimbursement, no cost or savings to any state agency, nor costs or savings in federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states; and (6) will continue to provide a nonmonetary benefit to the protection and safety of public health, employees and safety to the environment by providing a regulatory basis for enforcement efforts as they relate to commercial vehicle out-of-service criteria.. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

The CHP has determined that the proposed regulatory action has no affect on small businesses. Changes to the application of the regulation are not substantive and bring the regulation in conformance with existing statute. Minor addition and changes to the out-of-service criteria are clarifying in nature and all are within exiting requirements for industry.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Sections 2402, 2410, 31401, and 34501(a) CVC.

REFERENCE

This action implements, interprets, or makes specific Sections 2402, 2410, 12500, 12502, 12515(b), 14603, 15250, 15275, 15278, 23152, 24002, 24400, 24252, 24600, 24603, 24604, 24952, 27154, 27155, 27465, 27501, 27903, 29001, 29002, 29003, 29004, 31401, 34500, 34501, 34506, and 34510 CVC.

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
J. B. RODRIGUEZ, Chief
Enforcement and Planning Division